IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9266 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SOMABHAI SEEBHABHAI DHABI

Versus

APEX FOUNDERS

Appearance:

1. Special Civil Application No. 9266 of 1999

MR MAYUR S BAROT for Petitioner No. 1

MR KK NANAVATI for NANAVATI ASSOCIATES for Respondent No.1

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 27/06/2002

ORAL JUDGEMENT

Leave to amend name and address of the respondent - company granted.

1. The petitioner has filed this petition under

Article 226 of the Constitution of India to challenge the award made by Labour Court, Ahmedabad in Reference (LCA) no. 1560 of 1993 dated 27/1/1999 whereby the reference of the petitioner has been rejected.

1.1. The petitioner at the relevant time was working with respondent as Grinder. After putting in about 4 years of service he resigned from the employment of the respondent. It is his say that because he had raised certain demands the respondent had forcefully got the resignation from him. He has averred that he had never intended to resign from the employment of respondent. It also appears from the record that he had lodged one criminal complaint with Vatva Police Station, Ahmedabad, alleging that the proprietor of respondent had under threat and duress obtained his signatures on blank letterheads and he had obtained his resignation by force. He further alleged that despite the fact that no monetary benefits were given to him, vouchers were taken from him indicating payment of benefits. Later on, the petitioner raised a dispute which ultimately came to be referred to the Labour Court under the provisions of section 10 (1) (c) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Labour Court, after considering the evidence on record, came to the conclusion that the allegation made by the petitioner against the respondent to the effect that the resignation was taken from him by the respondent under threat and duress was not true and, therefore, the Labour Court was pleased to dismiss the reference as stated above. Hence the present petition.

2. Mr. M.S. Barot, learned counsel for the petitioner submitted that the award of the Labour Court is erroneous in asmuch as the Labour Court has not taken into consideration the relevant factors appearing in the evidence of the petitioner himself as well as other witnesses which would establish the fact that the resignation was taken from him by the respondent under threat. He has further submitted that the evidence on record clearly shows that the contents of the resignation are not in the hand writing of the petitioner and the same is written by some one else. He has further submitted that the evidence even does not clearly show as to who has written that resignation. He has further submitted that there is no reliable evidence to show that the said resignation was duly accepted by the respondent, as there is no documentary evidence to prove that fact. Lastly, he has submitted that this petition deserves to be allowed and the petitioner is required to be reinstated with full back wages.

2.1. As against that, Mr. K.K. Nanavati, learned advocate for the respondent submits that there is no illegality or irregularity committed by the Labour Court in appreciating the evidence on record. He has submitted that the evidence clearly shows that it was the petitioner who had voluntarily given the resignation which was duly accepted by the respondent. At the time of quitting the service the petitioner was paid all the monetary benefits which were available to him in law. He, therefore, submits that this petition does not have any merit and it is required to be dismissed.

3. Perusing the record of this petition, it appears that the petitioner had submitted resignation to the respondent after serving for about 4 years. It is true that the resignation is not written by the respondent. However, there is no dispute either with regard to the signature appended below it. It is that of the petitioner. There is nothing on record to show that the signatures of the petitioner were obtained on blank letterheads and his resignation was subsequently got written in his absence or against his wish on a blank paper which was signed by the petitioner. Moreover, the say of the petitioner is that because he had raised certain demands with the respondent, the respondent had got annoyed and had forced him to resign from the service. According to the evidence of the petitioner, it clearly appears that no such demands were raised by him before the respondent as he himself admits in the cross-examination by the respondent that he had never raised any demand with the respondent. There is nothing on record to show that the respondent had any grudge, malice or prejudice against the petitioner so as to take such a step. Any how, all these questions have been appreciated by the Labour Court and it is not within my jurisdiction to reappreciate the same under Article 226 of the Constitution of India. Mr. Barot has not been able to point out any glaring illegality or irregularity committed by the Labour Court. In that view of the matter, this petition does not have any merit and it requires to be dismissed. The petition is, therefore, dismissed with no order as to costs. rule discharged.

[Akshay H. Mehta, J.]

* Pansala.